

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA :
: NO. 1:03-CR-00081
:
v. :
: **OPINION AND ORDER**
:
MICHELLE MARKSBERRY. :
:
:

This matter is before the Court on Defendant's Motion for Modification of Terms of Sentence (doc. 57), and the Response of the United States to Defendant's Motion for Modification of Sentence (doc. 59). The Court also notes that it received correspondence from Defendant's family in support of Defendant's Motion.

Defendant requests that the Court convert the balance of her sentence to home incarceration as she has received all the statutory good time credit available to her and has been a model inmate (doc. 57). Defendant states that a sentence modification would comply with all the principles of 18 U.S.C. § 3553(a), in that she is not a threat to the community nor is she the type of defendant likely to re-offend if given such a release (Id.).

The government responds that under 18 U.S.C. § 3624(c) the authority to grant such a request rests with the Bureau of Prisons rather than with the Court (doc. 59). The government cites to authorities, including Prows v. Federal Bureau of Prisons, 981

F.2d 466, 469 (10th Cir. 1992), United States v. Laughlin, 933 F.2d 786, 789 (9th Cir. 1991), and United States v. Morales-Morales, 985 F. Supp. 229, 230-31 (DC Puerto Rico 1997), in which federal courts found they had no jurisdiction over such question (Id.).

Having reviewed this matter, the Court finds the government's position well-taken. Defendant must take her request to the Bureau of Prisons because this Court lacks jurisdiction over the question of whether she may serve the balance of her sentence with home confinement. Accordingly, the Court DENIES Defendant's Motion for Modification of Terms of Sentence (doc. 57).

SO ORDERED.

Dated: March 22, 2006

/s/ S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge